

E-FILED ON 10/31/06

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES *ex rel.* DONNA M.
McLEAN and THE STATE OF CALIFORNIA
ex rel DONNA M. McLEAN,

No. C05-01962 HRL

Plaintiffs,

v.

**ORDER SEVERING AND STAYING
CLAIMS AGAINST DEFENDANT DR.
DEE SCHAEFFER**

THE COUNTY OF SANTA CLARA, THE
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES OF SANTA CLARA
COUNTY, KENNETH BORELLI,
LAWRENCE GALLEGOS, EPIFANIO ("J.R.")
REYNA, TANYA BEYERS, DR. DEE
SCHAEFFER, DR. TOMMIJEAN THOMAS,
DR. RICHARD PERILLO and DOES 1-100,

Defendants.

COUNTY OF SANTA CLARA,

Counter-claimant,

v.

DONNA M. McLEAN and DOES 1-100,

Counter-defendants.

Relator Donna McLean and defendants Santa Clara County, Kenneth Borelli, Lawrence Gallegos, Epifanio Reyna, Tanya Beyers and Dr. Tommijean Thomas have voluntarily consented to proceed before a magistrate judge, including for trial and the entry of final

1 judgment, pursuant to 28 U.S.C. § 636(c). Defendant Dr. Richard Perillo has been voluntarily
2 dismissed from this action. Default has been entered against the remaining defendant, Dr. Dee
3 Schaeffer.

4 A magistrate judge may conduct civil proceedings and order the entry of judgment if
5 the parties consent. See 28 U.S.C. § 636(c); FED.R.CIV.P. 73; see also, e.g., Binder v. Gillespie,
6 184 F.3d 1059, 1063 (9th Cir. 1999) (concluding that magistrate judge had jurisdiction to enter
7 final judgment as between consenting parties, despite lack of written consent from defaulting
8 defendants). Further, under Fed.R.Civ.P. 21, the court has discretion to sever parties or any
9 claims against a party “on such terms as are just.” See FED.R.CIV.P. 21 (“Parties may be
10 dropped or added by order of the court on motion of any party or of its own initiative at any
11 stage of the action and on such terms as are just. Any claim against a party may be severed and
12 proceeded with separately”).

13 In this case, the court concludes that severance of the claims against Dr. Schaeffer will
14 prevent any further delay in the adjudication of the claims between plaintiff and other
15 defendants. Further, the court finds that no substantial right will be impaired by the severance.
16 Accordingly, all claims against Dr. Schaeffer are SEVERED, and the action is STAYED with
17 respect to her.

18 IT IS SO ORDERED.

19 Dated: October 31, 2006

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21 _____
22 HOWARD R. LOYD
23 UNITED STATES MAGISTRATE JUDGE
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5:05-cv-1962 Notice will be electronically mailed to:

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Counsel are responsible for distributing copies of this document to co-counsel who have not registered for e-filing under the court's CM/ECF program.

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